

# **EXHIBIT 23**

**Filed Under Seal**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: PORK ANTITRUST LITIGATION

Civil Action No. 18-1776(JRT/HB)

This Document Relates to:

All Actions

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VIDEOTAPED TELECONFERENCE DEPOSITION  
OF RODNEY BRENNEMAN

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APPEARANCES NOTED WITHIN

DATE: THURSDAY, AUGUST 4, 2022

PLACE: VIA ZOOM

WITNESS LOCATED IN KANSAS CITY, MISSOURI

TIME: 9:02 a.m.

BETHANY CAMMACK  
Certified Shorthand Reporter  
Mississippi CSR No. 1526

1 MR. SWARTZBERG: Objection, form.

2 THE WITNESS: We helped them with the  
3 design so that it could produce -- again, similar  
4 type scenario at Guymon, where it could produce the  
5 types of products that would maximize our  
6 opportunities in the export markets, and  
7 predominantly, the premium export markets.

8 MR. SWARTZBERG CONTINUED:

9 Q. Is it fair to say that both the Seaboard  
10 plant in Guymon, Oklahoma, and the Triumph plant in  
11 St. Joseph, Missouri were built or designed with  
12 export sales in mind?

13 MR. SWARTZBERG: Objection. Form,  
14 foundation.

15 THE WITNESS: Yes.

16 MR. SCHWINGLER CONTINUED:

17 Q. Let's talk about Seaboard's export  
18 program. You became CEO of Seaboard Foods in 2001.  
19 Is that right?

20 A. That's correct.

21 Q. And you remained CEO until two thousand --  
22 at some point in 2011?

23 A. Correct.

24 Q. During that ten-year period, did Seaboard  
25 try to grow its export sales?

1 A. Yes.

2 Q. I'd like to break that period up into a  
3 few different smaller segments. Let's talk about  
4 2001 to 2007. Did Seaboard try to grow its export  
5 sales during that time period?

6 A. Yes.

7 Q. How about 2008?

8 A. Yes.

9 Q. How about 2009, '10, and '11?

10 A. Yes.

11 Q. So for each year that you were the CEO of  
12 the company, was one of Seaboard's goals to grow  
13 its export sales?

14 A. Yes.

15 Q. Why?

16 MR. SCHWINGLER: Objection. Form,  
17 foundation.

18 THE WITNESS: Because it was more  
19 profitable if we could target some of the premium  
20 export markets.

21 COURT REPORTER: Mr. Schwingler, I  
22 need to stop for a second. I need to plug in.  
23 Okay? Can we go off the record just --

24 MR. SCHWINGLER: Let's go off the  
25 record.

1 THE VIDEOGRAPHER: Please stand by.  
2 The time is 6:25 p.m., and we're going off the  
3 record.

4 (OFF THE RECORD.)

5 THE VIDEOGRAPHER: The time is 6:27  
6 p.m., and we're back on the record.

7 MR. SCHWINGLER CONTINUED:

8 Q. Mr. Brenneman, before we took a break, we  
9 were discussing Seaboard's export strategy during  
10 your time as CEO from 2001 to 2011. Do you recall  
11 that?

12 A. Yes.

13 Q. I just want the record to be clear. I'm  
14 going to read you an allegation from one of the  
15 class complaints in this action about what's  
16 alleged.

17 And the allegation in Paragraph 2 of the  
18 Commercial Indirect Purchasers Fourth Amended  
19 Complaint alleges the Defendants -- and then  
20 quote -- "entered into a conspiracy from at least  
21 2009 to the present to fix, raise, maintain, and  
22 stabilize the price of pork."

23 Did Seaboard's export strategy change in  
24 2009 from what it had been prior to that?

25 MR. SWARTZBERG: Objection. Form,

1 operation?

2 MR. SWARTZBERG: Objection. Form,  
3 foundation.

4 THE WITNESS: I don't recall exactly,  
5 but I think we visited and decided we didn't -- we  
6 weren't interested in it. It wasn't a type of  
7 facility we wanted.

8 MR. SCHWINGLER CONTINUED:

9 Q. You were asked about sow liquidations in  
10 Dalhart. You weren't asked about what happened to  
11 the Texasoma facility. Was that facility closed?

12 A. No.

13 Q. What happened?

14 MR. SWARTZBERG: Objection. Form,  
15 foundation.

16 THE WITNESS: It was sold to Prestage  
17 Farms, I believe.

18 MR. SCHWINGLER CONTINUED:

19 Q. Did Prestage continue to sell hogs to  
20 Seaboard from that location?

21 A. Yes.

22 Q. During your time as CEO of Seaboard Foods,  
23 did -- to your knowledge, did the company ever  
24 agree with any competitor about how many sows it  
25 would have on its sow farms?

1 MR. SWARTZBERG: Objection. Form,  
2 foundation.

3 THE WITNESS: No.

4 MR. SCHWINGLER CONTINUED:

5 Q. Did you personally ever make any  
6 commitments to any competitor about how many sows  
7 Seaboard would have on its sow farms?

8 MR. SWARTZBERG: Objection, form.

9 THE WITNESS: No.

10 MR. SCHWINGLER CONTINUED:

11 Q. During your time as CEO of Seaboard, did  
12 the company ever liquidate a sow production  
13 facility?

14 MR. SWARTZBERG: Objection, form.

15 THE WITNESS: No.

16 MR. SCHWINGLER CONTINUED:

17 Q. During your time as CEO, did the company  
18 ever reduce its sow herd for the purpose of  
19 reducing its hog production?

20 MR. SWARTZBERG: Objection, form.

21 THE WITNESS: No.

22 MR. SCHWINGLER CONTINUED:

23 Q. During your ten years as CEO, including  
24 the period of 2009 to 2011, did the company ever  
25 intentionally reduce its hog production through any

1 vehicle?

2 MR. SWARTZBERG: Objection, form.

3 THE WITNESS: No.

4 MR. SCHWINGLER CONTINUED:

5 Q. Now, does that mean that the company's hog  
6 production numbers were always identical from day  
7 to day or week to week?

8 A. No, it does not mean that.

9 Q. Can you explain why hog production numbers  
10 don't stay constant?

11 MR. SWARTZBERG: Objection, form.

12 THE WITNESS: There are a number of  
13 reasons. Seasonality. They're biological  
14 creatures. Diseases. Weather. There could be a  
15 whole number of reasons that biological entities,  
16 animals, produce differently and/or grow  
17 differently. But those would be some of the key  
18 ones.

19 MR. SCHWINGLER CONTINUED:

20 Q. Was Seaboard able to say we want to  
21 produce exactly X hogs and then hit that target  
22 every time?

23 MR. SWARTZBERG: Objection, form.

24 THE WITNESS: No.

25 MR. SCHWINGLER CONTINUED:

1 Q. Why not?

2 MR. SWARTZBERG: Objection to form.

3 THE WITNESS: For those same types of  
4 reasons. And they're biological entities that you  
5 can't -- it's not like making widgets.

6 COURT REPORTER: Not like -- I'm  
7 sorry?

8 THE WITNESS: I'm sorry. Not like  
9 making widgets.

10 MR. SCHWINGLER CONTINUED:

11 Q. Why didn't Seaboard just err on the side  
12 of producing too many hogs, more hogs than it could  
13 slaughter at its plant?

14 MR. SWARTZBERG: Objection, form.

15 THE WITNESS: Because our strategy  
16 wasn't to overproduce and sell to other processors.  
17 Our strategy was to produce and process our own.  
18 And then what we needed additional, we would have  
19 procured from third party producers.

20 MR. SCHWINGLER CONTINUED:

21 Q. I'd like to have you take a look at an  
22 exhibit. I believe it's Tab 9S.

23 MR. SCHWINGLER: If the videographer  
24 could pull that up. This is the amended complaint  
25 filed by Buffalo Wild Wings in this action. And